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Letter dated 14 May 2002 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to transmit to you herewith a letter dated 10 May 2002 from Mr. Léonard She Okitundu addressed to Mr. Adama Dieng, Registrar of the International Tribunal for Rwanda, in which he invites the authorities of the Tribunal to consider the possibility of establishing a unit of the Tribunal in the Democratic Republic of the Congo.

I should be grateful if you would have the text of this letter and the annex thereto circulated as documents of the Security Council.

(*Signed*) Atoki **Ileka**
Ambassador
Permanent Representative

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Annex to the letter dated 14 May 2002 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council

Letter dated 10 May 2002 from the Minister of Foreign Affairs and Cooperation of the Democratic Republic of the Congo addressed to the Registrar of the International Tribunal for Rwanda

With a view to implementing cooperation between the International Tribunal for Rwanda and the Democratic Republic of the Congo, I have the honour to invite the authorities of the Tribunal to consider the possibility of establishing a unit of the Tribunal in the Democratic Republic of the Congo, specifically in the Congolese capital.

During your visit to Kinshasa last February, you stated that, given their mobility, some suspects or accused persons sought by the Prosecutor of the Tribunal might move to certain countries in the subregion, in particular the Democratic Republic of the Congo. At that time, you expressed a wish for close cooperation between the Tribunal and my Government. Obviously, all the Congolese authorities, including the Head of State and myself, gave our agreement in principle to cooperate in this work of international justice.

Recently, reiterating the position of the Rwandan Government, the Deputy Chief of the General Staff of the Rwandan Patriotic Army stated that the leaders of *Interahamwe* and the former Forces armées rwandaises who are suspected or accused of genocide by the Tribunal and who were said to threaten the security of Rwanda had their base in Kinshasa. At the same time he stated that his army would remain in the Congo as long as those suspects or accused persons remained at liberty. It therefore appears to be more than ever necessary to arrest those presumed to have committed genocide and to bring them before the Tribunal, in accordance with article 1 of the Statute of the Tribunal and chapter IX of the Lusaka Agreement, or before the Rwandan, Congolese or other national courts, in order to calm people's minds.

Such a step would definitely resolve the security concerns of Rwanda, would promote Rwandan national reconciliation and should logically induce the Patriotic Rwandan Army to leave the Democratic Republic of the Congo and, accordingly, result in regional reconciliation. In the event that the persons sought are not in the

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Secretary-General of the United Nations

Mrs. Navanethem Pillay
President of the International Tribunal for Rwanda

Mrs. Carla Del Ponte
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Congo, only an independent international body such as the International Tribunal would be able to draw up the relevant report in an impartial manner. In both cases, Rwanda would no longer have any security pretext for maintaining its troops in my country.

From a practical standpoint, the establishment of a unit in the Democratic Republic of the Congo would be beneficial for the Tribunal. By maintaining its presence in the country through an investigative service of the Prosecutor's Office and/or a unit of the Registry, the Tribunal would be closer to those subject to trial. This geographical proximity to the persons suspected or accused and to possible witnesses would enable it to see its investigations in Congolese territory through to a successful conclusion.

From a legal standpoint, article 28 of the Statute and rule 56 of the Rules of Procedure and Evidence of the Tribunal provide for cooperation with States. Moreover, the *ratione loci* and *ratione personae* competencies of the Tribunal justify such localization. It will be recalled that, in addition to its offices in Arusha, the Tribunal also already has other offices in The Hague, in Kigali and in New York.

From the social and political standpoint, this unit or office in the Democratic Republic of the Congo is necessary as a demonstration of justice and as part of the campaign against impunity. By pursuing the guilty, this unit would contribute towards reconciliation between Rwandans, on the one hand, and, on the other hand, between Rwandans and Congolese. It would make it possible to clarify once and for all the thorny question of the presence of presumed perpetrators of genocide in the Congo. Confidence would thereby be re-established between neighbouring countries and peace and security would be restored to the Great Lakes region. These ideals of justice, reconciliation and peace are the goals which Security Council resolution 955 (1994) of 8 November 1994 establishing the Statute of the International Tribunal for Rwanda specifically assigned to the Tribunal.

This proposal for the establishment of a unit of the International Tribunal for Rwanda in the Democratic Republic of the Congo is a new initiative of the Congolese Government and follows its proposal for the creation of an international commission to investigate armed groups in the Democratic Republic of the Congo, a proposal which has unfortunately not been accepted by the United Nations Security Council which has preferred to entrust that task to MONUC. It is also known that Rwanda is continuing to cite the existence of these armed groups (*Interahamwe* or former Forces armées rwandaises) as a reason for perpetuating its military presence in the Congo.

Our invitation to establish a unit of the Tribunal in the Democratic Republic of the Congo is evidence of the commitment of my Government to ensuring that justice is done to the victims of the Rwandan genocide and massacres. It demonstrates the good faith and the desire for transparency of the Government of the Democratic Republic of the Congo in the process of the disarming of the armed groups. It has the advantage of removing any security pretext from the Rwandan Government, thus making the presence of its occupation troops in the Democratic Republic of the Congo unnecessary. The Congolese people would thus recover their sovereignty and territorial integrity. Lastly, it is aimed at restoring peace in the Democratic Republic of the Congo and throughout the Great Lakes region.

I hope that the authorities of the Tribunal will seize this occasion to strengthen our ties of cooperation.

Accept, Sir, the assurances of my highest consideration.

(*Signed*) Léonard **She Okitundu**